

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MICHAEL FEINSTEIN,

Plaintiff,

-against-

**MEMORANDUM AND ORDER**

Case No. 19-CV-3344 (FB) (RML)

RICHARD A. CARRANZA, in his  
official capacity as Chancellor of the  
New York City Department of  
Education, and the NEW YORK CITY  
DEPARTMENT OF EDUCATION,

Defendants.

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*Appearances:*

*For the Plaintiff:*

HOWARD BORKMAN  
1501 Broadway, 21st Floor  
New York, New York 10036

*For the Defendants:*

DEVIN S. COHEN  
Assistant Corporation Counsel  
100 Church Street  
New York, New York 10007

**BLOCK, Senior District Judge:**

Michael Feinstein, a teacher employed by the New York City Department of Education, alleges that he was subject to a hostile work environment and otherwise subjected to discrimination based on his religion, in violation of Title VII of the Civil Rights Act of 1964, as well as the New York State Human Rights Law and the New York City Human Rights Law. The defendants move to dismiss on the ground that his complaint was not timely filed under 42 U.S.C. § 2000e-5(f)(1).

The cited statute requires a plaintiff to file his or complaint within 90 days of receiving a right-to-sue letter from the Equal Employment Opportunity Commission. This time limit is treated “not as [a] jurisdictional predicate[], but as [a] limitations period[] subject to equitable tolling.” *Johnson v. Al Tech Specialties Steel Corp.*, 731 F.2d 143, 146 (2d Cir. 1984). In the absence of tolling, “the court cannot extend the limitations period by even one day.” *Id.* (quoting *Rice v. New England Coll.*, 676 F.2d 9, 11 (1st Cir. 1982)).

Feinstein’s complaint alleges that he received a right-to-sue letter on March 6, 2019. His complaint was due to be filed by June 4, 2019. It was not filed, however, until June 5, 2019. He has not offered any grounds for equitable tolling. Indeed, he has not responded to the defendants’ motion as all.

Thus, Feinstein’s Title VII claim is untimely. And “[i]n general, where the federal claims are dismissed before trial, the state claims should be dismissed as well.” *Marcus v. AT&T Corp.*, 138 F.3d 46, 57 (2d Cir. 1998). Accordingly, the defendants’ motion is granted and Feinstein’s complaint is dismissed.

**SO ORDERED.**

/S/ Frederic Block  
FREDERIC BLOCK  
Senior United States District Judge

Brooklyn, New York  
February 24, 2021